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KARIN G. PAGNANELLI (SBN 174763)  
kgp@msk.com  
MARC E. MAYER (SBN 190969)  
mem@msk.com  
ALEXA L. LEWIS (SBN 235867)  
all@msk.com  
MITCHELL SILBERBERG & KNUPP LLP  
11377 West Olympic Boulevard  
Los Angeles, California 90064-1683  
Telephone: (310) 312-2000  
Facsimile: (310) 312-3100

Attorneys for Plaintiff  
ACTIVISION PUBLISHING, INC.

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ACTIVISION PUBLISHING, INC., a  
Delaware Corporation,

Plaintiff,

v.

ACTIVISION TV, INC, a Delaware  
Corporation; AD MEDIA DISPLAYS,  
INC., a Wyoming Corporation; DAVID  
GOTHARD, an individual,

Defendants.

CASE NO.

COMPLAINT FOR:

**(1) INFRINGEMENT OF  
FEDERALLY REGISTERED MARK  
[15 U.S.C. § 1114];**

**(2) FALSE DESIGNATION OF  
ORIGIN [15 U.S.C. § 1125(a)];**

**(3) DILUTION [15 U.S.C. § 1125(c)];**

**(4) UNFAIR COMPETITION  
[Common Law and Cal. Bus. & Prof.  
Code § 17200];**

**(5) CANCELLATION OF  
TRADEMARK REGISTRATION [15  
U.S.C. §§ 1064 and 1119];**

**(6) DECLARATORY RELIEF [28  
U.S.C. § 2201]**

**DEMAND FOR JURY TRIAL**

Mitchell  
Silberberg &  
Knupp LLP

COMPLAINT

1 Plaintiff Activision Publishing, Inc. ("Activision" or "Plaintiff"), for its  
2 Complaint against Defendants Activision TV, Inc., Ad Media Displays, Inc., and  
3 David Gothard ("Defendants"), states and alleges as follows:  
4

5  
6 **NATURE OF THE ACTION**

7 1. This is an action for trademark infringement, false designation of  
8 origin, dilution, and cancellation under the Lanham Trademark Act, for unfair  
9 competition under California law, and for declaratory relief. At issue in this action  
10 is the blatant and willful appropriation of one of Activision's most valuable assets  
11 – the famous ACTIVISION name – by a start-up company in the business of  
12 providing interactive computer and television services (including video games) to  
13 members of the public.

14 2. Activision is one of the world's leading makers of interactive  
15 entertainment products. For more than 30 years, since 1979, Activision has  
16 developed, produced, marketed, distributed, and licensed hundreds of video and  
17 computer game products under the ACTIVISION mark. Activision's products  
18 have been created for dozens of varieties of personal computer and home  
19 entertainment consoles, and include some of the most popular games ever released,  
20 such as the Guitar Hero® and Call of Duty® series of games. Based on  
21 Activision's lengthy, continuous and uninterrupted use of the ACTIVISION mark,  
22 ACTIVISION has become synonymous with Activision and its high-quality  
23 entertainment products, and has become famous in the United States (and around  
24 the world).

25 3. Defendants are an individual (David Gothard) and two affiliated  
26 companies owned or controlled by Gothard. With full knowledge of Activision  
27 and its trademark rights in the ACTIVISION mark, Gothard and his companies  
28 have marketed, advertised, and purported to offer for sale or lease interactive

1 computer-based television products – namely, products that allow members of the  
2 public to receive digital transmissions of a variety of multimedia content, including  
3 movies, television shows, and, of course, video and computer games – under the  
4 names “ActivisionTV,” “Activision.tv,” “Activision Systems,” “Activision  
5 Solutions,” and, on occasion, simply “Activision.”

6 4. Defendants’ use of the Activision name for their products and services  
7 is deliberate and intentional. For example, Defendants and their representatives  
8 have discussed at length ways to “capitalize” on their use of the Activision name  
9 and the brand recognition that the name afforded to them. They have used internet  
10 keywords and metatags designed to attract customers seeking Activision’s  
11 products. They have advertised the use of their system to play games such as  
12 World of Warcraft® (a game produced and distributed by Activision’s affiliate,  
13 Blizzard Entertainment, Inc.). Defendants even have suggested that the use of the  
14 Activision name might assist in obtaining an exploiting a licensing deal with  
15 Activision to offer its games via Defendants’ system. And, they now intend to  
16 place the “ActivisionTV” name directly on television screens from which members  
17 of the public may purchase entertainment products and services. Defendants  
18 apparently hope and intend that through their use of the ACTIVISION name and  
19 mark consumers will mistakenly believe that the goods and services they are  
20 purchasing from Defendants are in some manner associated with Activision and its  
21 high-quality products.

22 5. Through their conduct, Defendants have willfully created  
23 circumstances whereby members of the public and members of the relevant trade  
24 are likely to be led to incorrectly believe that Defendants and their goods and  
25 services are authorized by, sponsored by, or affiliated with Activision, its well-  
26 known marks, and the products provided thereunder. This conduct must come to  
27

1 an end, and Activision must be compensated for the injury to its trademark and  
2 reputation from Defendants' actions.

### 3 4 **JURISDICTION AND VENUE**

5 6. This is an action arising in part under the Lanham Act, 15 U.S.C. §  
6 1051, *et seq.* and under California statutory and common law.

7 7. This Court has subject matter jurisdiction over this matter pursuant to  
8 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331 and 1338(a) and (b) in that it involves an  
9 action arising under the Lanham Act. This Court has supplemental jurisdiction  
10 over the state law claims pursuant to 28 U.S.C. § 1367.

11 8. Defendants are subject to personal jurisdiction in the state of  
12 California because the unlawful conduct complained of herein causes injury in this  
13 judicial district, because Defendants have directed their activities at Activision and  
14 its trademarks, and Defendants transact business and offer their products for sale in  
15 this judicial district.

16 9. Venue is proper in this judicial district pursuant to 28 U.S.C. §  
17 1391(b) in that a substantial part of the events giving rise to this Complaint  
18 occurred in this judicial district.

### 19 20 **PARTIES**

21 10. Activision is a corporation organized and existing under the laws of  
22 the State of Delaware, having its principal place of business in Santa Monica,  
23 California.

24 11. Activision is informed and believes, and on that basis avers, that  
25 Defendant Activision TV, Inc. is a corporation organized and existing under the  
26 laws of the State of Delaware, having its principal place of business in Naples,  
27 Florida, with additional offices in Las Vegas, Nevada and Honolulu, Hawaii; that

1 Defendant Ad Media Displays, Inc. is a corporation organized and existing under  
2 the laws of the State of Wyoming, having its principal place of business in Naples,  
3 Florida; and that Defendant David Gothard is an individual residing in Florida.

4 12. Activision is informed and believes, and on that basis avers, that, at all  
5 times mentioned in this Complaint, each Defendant was the agent, alter ego, or  
6 representative of the other and, in doing the things averred in this Complaint, was  
7 acting within the course and scope of such agency.

8  
9 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

10 **Activision and its Famous ACTIVISION Mark**

11 13. Activision is one of the world's leading developers and publishers of  
12 interactive entertainment products, including video and computer games and  
13 related products. Activision finances, produces, creates, markets, distributes,  
14 licenses, and otherwise exploits its massive catalogue of interactive entertainment  
15 products. Activision is currently the largest video game publisher in the world.  
16 Activision also is among the world's first commercial video game developers,  
17 having been founded in 1979, just as video game consoles and personal computers  
18 were becoming available to the mass market.

19 14. Activision has developed, published and distributed hundreds of video  
20 game products for dozens of video game systems. Activision's catalog includes  
21 some of the best-known and most popular video games ever created. Activision's  
22 catalog ranges from classic 1980's cartridge games such as "Pitfall," and  
23 "Kaboom!," to contemporary blockbuster franchises such as the Guitar Hero® and  
24 Call of Duty® series of games. Activision's Call of Duty® series of games is the  
25 highest-grossing video game series in history, selling tens of millions of copies  
26 worldwide. Activision distributes its game products through a variety of channels,  
27 including on CDs or DVDs via "brick-and-mortar" and web retail stores, and by

1 digital download via online services such as Xbox Live, the PlayStation Network,  
2 and Valve's Steam service. Activision also licenses its games to video game rental  
3 services such as Blockbuster and Gamefly, who charge a per-day or per-week fee  
4 to customers for the use of Activision games.

5 15. Activision's catalog of games includes games for virtually every  
6 game-playing system ever developed. This includes console systems such as the  
7 Xbox, PlayStation, Nintendo, and Sega systems, portable handheld game systems  
8 such as the Gameboy and Nintendo DS, and personal computers ranging from  
9 early Atari and Apple 8-bit systems to current Windows PC systems. Additionally,  
10 for nearly 20 years, Activision's games have been playable online over the  
11 Internet, using computer servers to connect players to each other for cooperative or  
12 competitive online play.

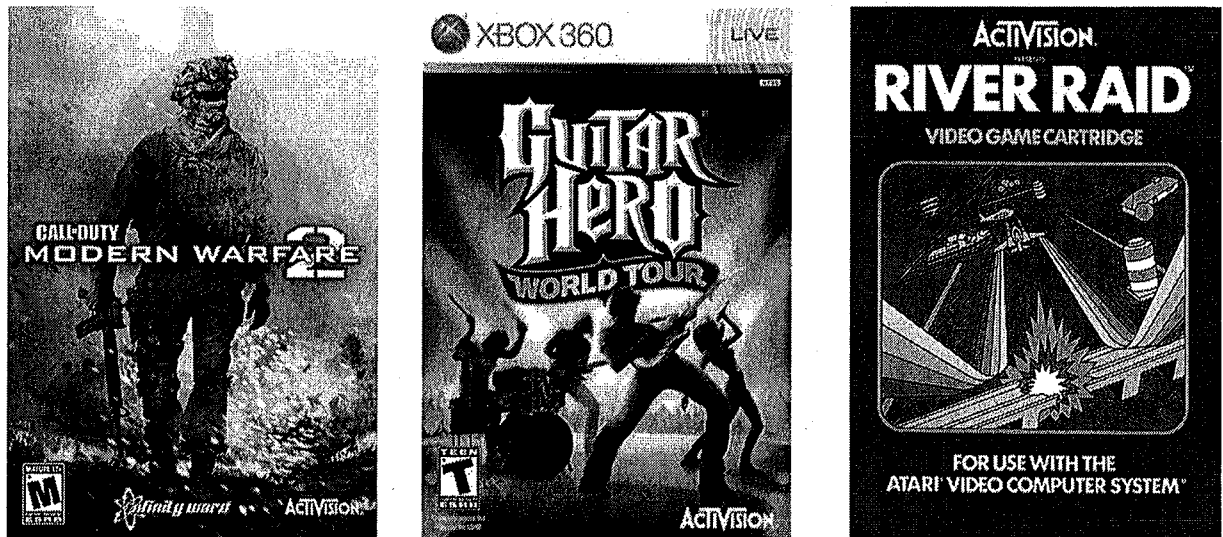
13 16. For more than 30 years, Activision has consistently, and without  
14 interruption, used in commerce the word mark ACTIVISION and a related  
15 ACTIVISION logo (collectively, the "ACTIVISION Marks") in connection with  
16 its interactive entertainment and related products. The ACTIVISION logo  
17 (depicted below) is comprised of the word ACTIVISION, with the letters T and V  
18 drawn in a larger font and connected to each other. Thus, the ACTIVISION logo  
19 in fact forms two words: ACTIVISION and TV, a nod to the fact that Activision  
20 games traditionally were played by consumers on their television sets.



25 17. The ACTIVISION Marks have been prominently displayed on  
26 Activision video game products since 1980, including on the front and back covers  
27 of the physical product, on the game's instruction manual, on a loading or "splash"



1 screen displayed when the game is launched, and in some instances within the  
 2 game itself. The below examples illustrate the manner in which the ACTIVISION  
 3 Marks are used on the front box cover of popular video game titles.



14 18. In addition to the foregoing, Activision licenses the ACTIVISION  
 15 Marks for use on a variety of merchandise, including clothing, hats, video game  
 16 consoles, computer hardware peripherals, posters, and books. Activision also has  
 17 licensed the ACTIVISION Marks and Activision video game products for use in  
 18 arcade cabinets and kiosks.

19 19. Activision has invested millions of dollars and enormous time, effort,  
 20 and resources developing and promoting its ACTIVISION Marks. As a result,  
 21 ACTIVISION has become known throughout the United States and the world by  
 22 consumers, purchasers and members of the public as signifying interactive  
 23 entertainment and related products originating from Activision. Activision has  
 24 acquired a valuable reputation and goodwill among the public as a result of such  
 25 association. Indeed, the ACTIVISION Marks have become among the most  
 26 valuable and well-recognized marks in the world, and are famous in the United  
 27 States.

20. In addition to its common law trademarks in the ACTIVISION Marks, Activision is the owner of no fewer than five U.S. registrations in the U.S. Patent and Trademark Office ("PTO") for the ACTIVISION Marks, including Registration Numbers 1,183,958; 1,207,377; 1,350,487; 2,903,474; and 3,398,311. Among the goods and services included within Activision's registrations for the ACTIVISION Marks are video game cartridges, computer programs and instruction manuals, entertainment software production services, downloadable computer game and entertainment software, game strategy guides, and clothing. Certain of these registrations have been deemed incontestable pursuant to 15 U.S.C. § 1065.

21. The ACTIVISION Marks are among Activision's most valuable assets, and have developed an enormous amount of goodwill among consumers and members of the public. Activision regularly takes steps to protect its valuable ACTIVISION Marks and enforce its rights against those who seek to trade off the goodwill associated with these Marks.

#### Defendants' Fraudulent "Activision" Registration

22. Defendants ActivisionTV, Inc., Activision Systems, Inc., and Ad Media Displays, Inc. are a group of affiliated companies that all are owned and controlled by Defendant David Gothard. Gothard is a Florida-based "entrepreneur" who claims to have developed certain technology involving digital video displays.

23. In or about 1999, Gothard and his company Ad Media Displays, Inc., purported to register, on an "intent to use" basis, a U.S. trademark for the word ACTIVISION in connection with "illuminated advertising and display signs" (International Class 9) and "promoting the goods and services of others by creating and displaying display signs" (International Class 35). Gothard and Ad Media



1 Displays did so with full knowledge of Activision and its ACTIVISION Marks,  
2 and with the intent of profiting from Activision's goodwill by attempting to secure  
3 a trademark registration for a category of goods that had not yet been registered by  
4 Activision. For the next 6 years, Gothard and Ad Media Displays made no effort  
5 to demonstrate to the PTO their purported "use" of the ACTIVISION mark.

6 24. Activision is informed and believes, and on that basis avers, that  
7 contrary to the representations of Gothard and Ad Media Displays to the U.S.  
8 Patent and Trademark Office, Gothard and Ad Media Displays did not in fact have  
9 a bona fide intent to use the Activision mark in connection with the categories of  
10 goods and services for which they sought registration. Rather, the 1999  
11 registration was a ploy to improperly seize the ACTIVISION name for a variety of  
12 future ventures for which the use of that name would give the company a  
13 marketing advantage.

14 25. In or about 2005, after receiving a Notice of Abandonment from the  
15 United States Patent and Trademark Office, Gothard and Ad Media Displays  
16 submitted a purported "Statement of Use," attesting under oath that they had used  
17 the term ACTIVISION in Class 9. Gothard and Ad Media Displays submitted as a  
18 purported "specimen" with their Statement of Use a brochure depicting a television  
19 set with the word "Activision Systems" at the bottom.

20 26. Gothard and Ad Media Displays attested under oath that the  
21 statements made in the Statement of Use were true and that the mark "is now in  
22 use in commerce," under penalty of fine or imprisonment. Nevertheless,  
23 Activision is informed and believes, and on that basis avers, that in fact the  
24 "Statement of Use" and the included specimen were false and fraudulent.  
25 Specifically, no such television set ever existed or ever was sold to the public.  
26 Moreover, Gothard and Ad Media Displays never used the word "Activision" in  
27 connection with any purported "illuminated advertising and display signs" or

1 “promoting the goods and services of others by creating and displaying display  
2 signs.” Additionally, Activision is informed and believes, and on that basis avers,  
3 that Gothard and Ad Media Displays never submitted a corresponding “Statement  
4 of Use” for any goods or services in Class 35.

5 27. Activision is informed and believes, and on that basis avers, that  
6 Gothard and Ad Media Displays knew that they had never used the ACTIVISION  
7 mark in commerce in connection with any goods or services, including illuminated  
8 advertising and display signs, and also knew that the brochures submitted as  
9 specimens did not depict an actual product available on the market. Activision is  
10 informed and believes, and on that basis avers, that the representations made by  
11 Gothard and Ad Media Displays in the Statement of Use were made falsely, with  
12 the intent to deceive the Patent and Trademark Office and to obtain a registration  
13 that they knew that were not entitled to.

14 28. As a result of the false and misleading representations made by  
15 Gothard and Ad Media Displays in their Statement of Use, and notwithstanding  
16 Defendants’ failure to show any actual use of the Activision mark in connection  
17 with any goods or services or to file a Statement of Use in Class 35, on March 15,  
18 2005, the U.S. Patent and Trademark Office registered a trademark in the mark  
19 ACTIVISION in the name of Ad Media Displays, Inc. in Classes 9 and 35 (Reg.  
20 No. 2,933,439, or the “Registration”).

21  
22 Defendants’ Infringing Use Of The “Activision” and “ActivisionTV” Marks

23 29. In or about 2006, shortly after obtaining the Registration, Gothard  
24 incorporated in the State of Delaware a new corporation, ActivisionTV, Inc.  
25 (“ATV”). Immediately thereafter, Gothard caused Ad Media Displays to assign all  
26 of its intellectual property rights, including its ACTIVISION trademark  
27 registration, to ATV. Thereafter, Ad Media Displays became inactive and is no

1 longer registered to transact business in Florida. At the time, Ad Media Displays  
2 was not selling or distributing any products or services using the ACTIVISION  
3 mark.

4 30. In or about 2007, Gothard, now operating as ActivisionTV, began  
5 formulating a plan for the development and distribution of an “interactive  
6 television set” that would purportedly integrate a basic computer system (which  
7 Gothard referred to as the “Works in a Box”) and internet connection with a  
8 television screen or monitor. Using this system, Gothard and ATV intended to  
9 provide “on demand” entertainment, computer applications, video games,  
10 advertisements, and a variety of other content to consumers. At the time, no such  
11 technology had actually been developed or tested by ATV, but was merely a  
12 concept for a future technology that it hoped to eventually bring to market.

13 31. In or about 2008 and 2009, ATV began making presentations to a few  
14 select businesses and investors using the name “Activision,” “ActivisionTV,” or  
15 “Activision.tv,” at times falsely representing that it possessed a registered  
16 trademark for the term ACTIVISION for interactive television services.  
17 Additionally, in or about 2009, ATV registered the domain name  
18 www.activision.tv and launched a website. In these presentations and on its  
19 website, ATV touted a product (sometimes referred to as the “Activision System”  
20 or “Activision Solution”) that would be used as an all-in-one content delivery  
21 system in hotels. Specifically, ATV’s proposed and advertised system would  
22 allow hotel guests to receive a variety of in-room digital services, including “on  
23 demand” transmission of movies, television programs, and video games, as well as  
24 certain computer functions such as word processing. ATV proposed that these  
25 services would be charged to a guest’s hotel bill and the corresponding revenue  
26 would be shared between ATV and the hotel. However, ATV’s system was never  
27 installed in any hotel or other establishment and Activision is informed and

1 believes, and on that basis avers, that the proposed system did not exist at that  
2 time. It certainly did not exist in any usable or marketable form.

3 32. In or about 2009, Activision became aware of the existence of ATV  
4 and that ATV intended to provide computer and interactive television services,  
5 including video game transmission services, using the "Activision" name. On  
6 April 9, 2010, Activision sent ATV a letter demanding that ATV cease and desist  
7 from any use of the Activision name or mark. ATV refused to do so.

8 33. Notwithstanding that ATV had never sold or distributed an interactive  
9 television product bearing the ACTIVISION mark, in 2009 ATV filed the first of  
10 three (to become four after one of the applications was severed) trademark  
11 applications (the "Applications") for the mark ACTIVISION.TV or a related  
12 design mark incorporating the words "ACTIVISION.TV" (the "ATV Marks").  
13 The Applications sought registration of the various ATV Marks for dozens of  
14 goods and services, including computers, television sets, broadcasting equipment,  
15 digital display screens, computer servers and components, and digital broadcasting,  
16 and narrowcasting services. At the time the Applications were filed, ATV had  
17 never sold, leased, or distributed any of the products identified in the Applications  
18 using the ACTIVISION TV name. Nor had it ever provided any broadcasting or  
19 narrowcasting services or transmissions under the ACTIVISION TV name (or any  
20 other name).

21 34. On June 30, 2010, July 28, 2010, September 22, 2010, and March 3,  
22 2011, Activision filed Notices of Opposition to each of ATV's four trademark  
23 Applications. The four Oppositions have been consolidated for trial purposes, and  
24 have been ongoing before the Trademark Trial and Appeal Board ("TTAB"). The  
25 testimony period currently is scheduled to begin on November 18, 2012.

26 35. Recently, and subsequent to filing its Notices of Opposition,  
27 Activision learned of continuing and, indeed, escalating infringement by ATV of

1 the ACTIVISION Marks. By way of example, Activision recently has learned that  
2 in 2010 ATV, Gothard, and other representatives of Defendants have used the  
3 ACTIVISION name at trade shows dedicated to home electronics and multimedia  
4 entertainment, such as the Consumer Electronics Show in Las Vegas. ATV has  
5 sponsored sporting events, including an event where the ACTIVISION TV logo  
6 was placed on a race car. In 2010 and 2011 ATV, Gothard, and other  
7 representatives of Defendants made presentations and proposals to more than a  
8 dozen investor groups, hotel chains, satellite television providers, and retail stores  
9 (including retail stores where Activision games are sold) using the ACTIVISION  
10 TV and ACTIVISION Marks interchangeably. Most recently, ATV filed a series  
11 of patent lawsuits in which it refers to itself as "Activision." Activision is  
12 informed and believes, and on that basis avers, that in connection with these  
13 activities ATV did not attempt to distinguish itself from Activision or dispel any  
14 confusion and, to the contrary, fostered marketplace confusion.

15 36. Additionally, in 2011, ATV began installing television sets and  
16 computer systems in two hotels. In each of these hotels, ATV has placed a sticker  
17 bearing the "Activision TV" name on or in close proximity to the television set.  
18 Additionally, ATV intends to soon begin offering in-room entertainment and  
19 internet services to guests at these hotels. These services will include the ability to  
20 play online, browser-based, or social networking video games. When it offers  
21 these services, the word "Activision TV" will be displayed prominently on the  
22 television display, including on screens where movies, television programs,  
23 internet browser access, and other computer services can be ordered and paid for.  
24 ATV also intends to eventually offer its products and services directly to  
25 consumers, and to include in its products and services the ability to receive and  
26 play video games, including games published by Activision and its affiliates.



1           37.   ATV's "Activision TV" mark is visually and aurally similar (indeed,  
2 it is nearly identical) to Activision's ACTIVISION marks. In fact, Activision's  
3 ACTIVISION logo incorporates the word "TV." The parties' respective marks  
4 also are used for the same categories and classes of goods, are used in the same  
5 relevant market, and thus create the same commercial impression in the  
6 marketplace. Moreover, Activision and its products are generally associated in the  
7 minds of the public with television sets and displays, because video games  
8 typically are played on television sets.

9           38.   Activision has never authorized ATV to use any of its ACTIVISION  
10 Marks or any confusingly similar mark.

11           39.   ATV's unauthorized use of the confusingly similar words  
12 "Activision" "Activision Systems" and "Activision.tv" in connection with its  
13 products are likely to confuse, to cause mistake, or to deceive consumers.  
14 Members of the public and the relevant trade also are likely to believe that  
15 Activision is the source of, has endorsed or approved, or is somehow otherwise  
16 legitimately associated with ATV and its products.

17           40.   Activision is informed and believes, and on that basis avers, that in  
18 adopting and using the ACTIVISION TV mark, ATV intended to appropriate and  
19 trade off Activision's goodwill and the fame of its ACTIVISION marks. For  
20 example, in 2009, ATV's own public relations firm actively sought ways to  
21 "capitalize" on the similarity between the Activision TV name and the  
22 ACTIVISION Marks, including by embedding within the Activision TV website  
23 hidden "metatags" for the word "gaming" or by offering Activision's own games  
24 on its system. Indeed, ATV's own website advertises that the Activision TV in-  
25 room entertainment system allows users to play the highly popular game World of  
26 Warcraft®, published by Activision's affiliate, Blizzard Entertainment, Inc.

**FIRST CLAIM FOR RELIEF**  
**FEDERAL TRADEMARK INFRINGEMENT**  
**(15 U.S.C. § 1114)**

41. Activision incorporates herein by reference the averments of paragraphs 1 through 40 as though fully set forth herein.

42. Activision is the owner of all right, title, and interest in the ACTIVISION marks and has standing to maintain an action for trademark infringement under 15 U.S.C. § 1114.

43. With actual and constructive notice of Activision's federal trademark registrations and of Activision's extensive and continuous use of the ACTIVISION Marks, Defendants have used, and are continuing to use, the confusingly similar marks "Activision TV," "Activision.tv," "Activision," "Activision Systems," and "Activision Solution" (the "Infringing Marks") in the United States upon goods and services identical to, or similar to, the goods and services in connection with which Activision uses its ACTIVISION marks.

44. Defendants' use of the Infringing Marks, including in connection with the promotion, sale, offering for sale, and distribution of interactive television and related products and services is likely to cause, and has in fact caused, confusion, deception, and mistake among consumers. Buyers and persons who see Defendants' products bearing the Infringing Marks will think that they are Activision's products, or are licensed or approved by Activision. This includes initial interest confusion, confusion at the time of sale, and post-sale confusion. In actual fact, Activision does not approve Defendants' use of the Infringing Marks on any of its goods or services, and strongly objects thereto.

45. Defendants know that use of the Infringing Marks is infringing, have reason to know that it is infringing, and/or have been recklessly indifferent to the fact that such use was and is infringing.

1           46. As a result of Defendants' conduct, Activision has suffered loss of  
2 profits and other damage, and Defendants have earned illegal profits, in an amount  
3 to be proven at trial. Such damages and profits should be trebled in accordance  
4 with 15 U.S.C. §1117.

5           47. Defendants' acts have caused or are likely to cause, unless restrained  
6 by this Court, Activision and the public to suffer great and irreparable damage and  
7 injury through, *inter alia*, (a) a likelihood of confusion, mistake, and deception  
8 among the relevant purchasing public and trade as to the source of the Infringing  
9 Products; and (b) the loss of Activision's valuable goodwill and business  
10 reputation symbolized by its ACTIVISION Marks. Activision has no adequate  
11 remedy at law.

12           48. Defendants' continued and knowing use of Activision's marks  
13 without its consent or authorization constitutes intentional infringement of  
14 Activision's federally registered ACTIVISION Marks in violation of Section 32 of  
15 the Lanham Act, 15 U.S.C. § 1114, and renders this an "exceptional case" under  
16 U.S.C. § 1117(a). Based on such conduct, Activision is entitled to injunctive relief  
17 as well as monetary damages, and other remedies provided by Sections 1116,  
18 1117, and 1118, including Defendants' profits, treble damages, reasonable  
19 attorneys' fees, costs and prejudgment interest.

20  
21                           **SECOND CLAIM FOR RELIEF**  
22                           **FALSE DESIGNATION OF ORIGIN**  
23                           **(15 U.S.C. § 1125(a))**

24           49. Activision incorporates herein by reference the averments of  
25 paragraphs 1 through 48 as though fully set forth herein.

26           50. Activision, as the owner of all common law right, title, and interest in  
27 and to the ACTIVISION Marks, has standing to maintain an action for false

1 designation of origin and unfair competition under the Section 43(a) of the Lanham  
2 Act, 15 U.S.C. § 1125. Activision's ACTIVISION Marks are not only inherently  
3 distinctive and/or have acquired distinctiveness, but they are famous.

4 51. Defendants have, without authorization, on or in connection with their  
5 goods and services, used in commerce marks that are confusingly similar to the  
6 ACTIVISION Marks, and/or has made false designations of origin which are likely  
7 to cause confusion or cause mistake or to deceive as to the affiliation, connection  
8 or association of Defendants with Activision, and/or as to the origin, sponsorship  
9 or approval of Defendants' goods or services or commercial activities.

10 52. Activision is informed and believes, and on that basis avers, that the  
11 conduct of Defendants has been knowing, deliberate, willful, intended to cause  
12 confusion, or to cause mistake or to deceive and in blatant disregard of  
13 Activision's rights.

14 53. Defendants knew or by the exercise of reasonable care should have  
15 known that the adoption and commencement of use in commerce and continuing  
16 use of marks that are confusingly similar to Activision's ACTIVISION Marks  
17 would cause confusion, mistake, or deception among purchasers, users and the  
18 public.

19 54. Defendants' wrongful conduct has permitted or will permit it to make  
20 substantial sales and profits on the strength of Activision's marketing, advertising,  
21 sales and consumer recognition. As a direct and proximate result of Defendants'  
22 wrongful conduct, as alleged herein, Activision has been deprived and will be  
23 deprived of the value of its ACTIVISION Marks as a commercial asset in an  
24 amount as yet unknown but to be determined at trial. Activision seeks an  
25 accounting of Defendants' profits, and requests that the Court grant Activision  
26 three times that amount.

27 55. Defendants' acts and omissions have caused and, unless restrained by

1 this Court, will continue to cause Activision and the public to suffer great and  
 2 irreparable damage and injury through, *inter alia*, (a) a likelihood of confusion,  
 3 mistake and deception among the relevant purchasing public and trade as to the  
 4 source of the Defendants' Infringing Products; and (b) the loss of Activision's  
 5 valuable goodwill and business reputation symbolized by its ACTIVISION Marks.  
 6 Activision has no adequate remedy at law.

7 56. Based on Defendants' wrongful conduct, Activision is entitled to  
 8 injunctive relief as well as monetary damages and other remedies as provided by  
 9 the Lanham Act, including Defendants' profits, treble damages, reasonable  
 10 attorneys' fees, costs and prejudgment interest.

11 57. Upon information and belief, Defendant has deliberately and willfully  
 12 used the ACTIVISION Marks in an attempt to capture initial consumer attention  
 13 and to trade upon the enormous goodwill, reputation and selling power developed  
 14 by Plaintiff in connection with the Goods ACTIVISION Marks, as well as in order  
 15 to confuse consumers as to the origin and sponsorship of Defendant's goods.  
 16 Upon information and belief, the intentional nature of the aforementioned acts  
 17 renders this an exceptional case under 15 U.S.C. § 1117(a), and Plaintiff is further  
 18 entitled to its attorney's fees and costs of suit herein pursuant to 15 U.S.C. § 1117.

### 19 20 **THIRD CLAIM FOR RELIEF**

#### 21 **TRADEMARK DILUTION**

#### 22 **(15 U.S.C. § 1125(c))**

23 58. Activision incorporates herein by reference the averments of  
 24 paragraphs 1 through 57 as though fully set forth herein.

25 59. Plaintiff's ACTIVISION Marks are famous. The ACTIVISION  
 26 Marks are strong and unique, have been used in connection with the products  
 27 offered by Activision for an extended period of time, have been the subject of



1 substantial advertising and promotion, have been used and advertised throughout  
 2 the United States, and are widely recognized by consumers and those in the trade.  
 3 The acts of Defendants in using the ACTIVISION Marks in advertising and  
 4 elsewhere were commenced and committed from a time after Plaintiff's  
 5 ACTIVISION Marks became famous.

6 60. Defendants' acts of using the ACTIVISION Marks in Defendants'  
 7 advertising, marketing, and elsewhere are in violation of 15 U.S.C. § 1125(c) in  
 8 that they have caused dilution of the distinctive quality of Activision's famous  
 9 ACTIVISION Marks, all to the irreparable injury and damage to Activision.

10 61. Defendants' acts have harmed Activision and lessened its ability  
 11 uniquely to identify and distinguish its products and services by using the  
 12 ACTIVISION Marks. Defendants' acts have blurred the unique association that  
 13 has existed between Activision's ACTIVISION Marks and the goods made or  
 14 authorized by Activision.

#### 15 16 **FOURTH CLAIM FOR RELIEF**

#### 17 **UNFAIR COMPETITION**

18 **(Cal Bus. & Prof. Codes 17200, 17208, and 17500, *et seq.*)**

19 62. Activision incorporates herein by reference the averments of  
 20 paragraphs 1 through 61 as though fully set forth herein.

21 63. Defendants have, by reason of the foregoing acts, engaged in unfair  
 22 and fraudulent business practices.

23 64. Defendants' acts have impaired or will impair Activision's business  
 24 and have otherwise adversely affected Activision's business and reputation by use  
 25 of unfair and fraudulent business practices in violation of the California Business  
 26 & Professions Code, including Sections 17200 to 17208, 17500, *et seq.*, and the  
 27 common law.

1           65. Activision is informed and believes, and on that basis avers, that  
 2 Defendants' acts have caused and, unless restrained by this Court, will continue to  
 3 cause Activision to suffer great and irreparable damage and injury. Activision has  
 4 no adequate remedy at law.

5           66. Upon information and belief, Activision avers it will suffer loss of  
 6 profits and other damage as a result, in an amount to be proven at trial. On the  
 7 statutory unfair competition claim, Activision seeks only disgorgement of profits  
 8 and does not seek damages at law.

9  
 10                                   **FIFTH CLAIM FOR RELIEF**

11                           **CANCELLATION OF U.S. TRADEMARK 2,933,439**

12                                   **(15 U.S.C. §§ 1064 and 1119)**

13           67. Activision incorporates herein by reference the averments of  
 14 paragraphs 1 through 66 as though fully set forth herein.

15           68. On information and belief, when Gothard and his company Ad Media  
 16 Displays, Inc. filed the application that matured into Registration No. 2,933,439, it  
 17 knew its statements and declarations to the USPTO in connection therewith were  
 18 false. Defendants had the intent to mislead the USPTO and thereby to commit  
 19 fraud as they were aware that they did not in fact have a bona fide intent to use the  
 20 ACTIVISION mark in connection with the categories of goods and services for  
 21 which they sought registration, and, moreover, they never did use the mark in  
 22 connection with these categories of goods and services. Instead, Defendants  
 23 submitted a "specimen" that depicted a product that Defendants knew did not exist.  
 24 Defendants also have admitted that at that time they submitted the 1999  
 25 registration and subsequent filings, they were aware of Activision's ACTIVISION  
 26 marks but believed that they had found a way to appropriate the name for their new  
 27 business venture.

70. As a result of Gothard and Ad Media's false and fraudulent statements relied on by the USPTO in connection with the above, the Registration is subject to cancellation at any time, and should be cancelled, pursuant to 15 U.S.C. § 1064(3).

71. Pursuant to 15 U.S.C. § 1119, this Court has jurisdiction to order the USPTO to cancel the Registration due to Gothard and Ad Media's fraud.

## DECLARATORY RELIEF

(28 U.S.C. § 2201)

72. Activision incorporates herein by reference the averments of paragraphs 1 through 71 as though fully set forth herein.

73. An actual dispute has arisen and now exists between Activision, on the one part, and Activision TV, Inc., on the other part. Activision contends that Activision TV, Inc. is not entitled to the registration with the United States Patent and Trademark Office of the trademarks that are the subject of Applications Serial Nos. 77/827,404; 77/978,580; 77/912,745 and 85/143756. Activision TV, Inc. disputes Activision's contentions and contends otherwise.

74. Activision requests a judicial declaration sustaining its Oppositions Nos. 91195837, 91196584, 91198836 and 91201190, and denying registration of Activision TV, Inc.'s Applications Serial Nos. 77/827,404; 77/978,580; 77/912,745 and 85/143756.

75. Such a declaration is necessary and appropriate at this time to avoid a multiplicity of actions, to resolve present and continuing disputes between the parties, and to avoid consumer confusion with regard to the ACTIVISION Marks.

1 WHEREFORE, as to all Counts of this Complaint, Plaintiff requests that this  
 2 Court enter a judgment and declaration in favor of Plaintiff and against Defendants  
 3 as follows:

4 A. Preliminarily and permanently enjoining and restraining Defendants,  
 5 all entities under their control, as well as their licensees, partners, assigns, related  
 6 entities, predecessors, successors, employees, representatives, trustees, receivers,  
 7 agents, and any other persons or entities acting on behalf of Defendants or with  
 8 Defendants' authority, from:

9 (1) using, selling, offering for sale, holding for sale, advertising or  
 10 promoting any goods or services under or in connection with any trade  
 11 name, trademark, service mark, Internet domain name or other designation  
 12 of origin that is comprised in whole or in part of the ACTIVISION Marks, or  
 13 any terms, designs or styles confusingly similar thereto; or

14 (2) doing any act or thing that is likely to induce the belief that  
 15 Defendants' goods or services, or activities are in some way connected with  
 16 Plaintiff and/or Plaintiff's business, or that is likely to injure or damage  
 17 Plaintiff or its ACTIVISION Marks; and

18 B. Ordering Defendants to:

19 (1) pay Plaintiff the compensatory damages sustained by Plaintiff  
 20 as a result of the unlawful acts alleged herein and that such damages be  
 21 trebled pursuant to 15 U.S.C. § 1117 because of the willful and unlawful  
 22 acts alleged herein;

23 (2) pay Plaintiff punitive damages as a consequence of the willful  
 24 and wanton acts alleged herein;

25 (3) account for and pay over to Plaintiff all gains, profits and  
 26 advantages derived but it from the unlawful acts alleged herein and/or as a  
 27 result of unjust enrichment;

1 (4) deliver up for destruction all materials that bear the  
2 ACTIVISION Marks, including without limitation all letterhead, signage,  
3 brochures, labels, stickers, trade show displays and materials, written  
4 materials and other promotional materials;

5 (5) deliver up for destruction all products that infringe on the  
6 ACTIVISION Marks;

7 (6) reimburse Plaintiff for the costs it has incurred in bringing this  
8 action, together with its reasonable attorneys' fees and disbursements;

9 (7) pay Plaintiff's costs of corrective advertising;

10 C. Ordering the cancellation of United States Trademark Registration  
11 No. 2,933,439.

12 D. Ordering a judicial declaration sustaining its Oppositions Nos.  
13 91195837, 91196584, 91198836 and 91201190, and denying registration of  
14 Activision TV, Inc.'s Applications Serial Nos. 77/827,404; 77/978,580;  
15 77/912,745 and 85/143756.

16 E. Awarding Plaintiff such other and further relief as this Court may  
17 deem equitable.

18  
19 Dated: October 17, 2012:

MITCHELL SILBERBERG & KNUPP LLP  
KARIN G. PAGNANELLI  
MARC E. MAYER  
ALEXA L. LEWIS

20  
21  
22 By: 

Marc E. Mayer  
Attorneys for Plaintiff  
Activision Publishing, Inc.



**DEMAND FOR JURY TRIAL**

Plaintiff ACTIVISION PUBLISHING, INC. demands a trial by jury of all issues triable of right by jury.

Dated: October 17, 2012:

MITCHELL SILBERBERG & KNUPP LLP  
KARIN G. PAGNANELLI  
MARC E. MAYER  
ALEXA L. LEWIS

By: 

Marc E. Mayer  
Attorneys for Plaintiff  
Activision Publishing, Inc

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Stephen V. Wilson and the assigned discovery Magistrate Judge is John E. McDermott.

The case number on all documents filed with the Court should read as follows:

**CV12- 8964 SVW (JEMx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

☒ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☐ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☐ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

## CIVIL COVER SHEET

**I (a) PLAINTIFFS** (Check box if you are representing yourself ☐)

ACTIVISION PUBLISHING, INC., a Delaware Corporation

**DEFENDANTS**

ACTIVISION TV, INC, a Delaware Corporation; AD MEDIA DISPLAYS, INC., a Wyoming Corporation; DAVID GOTHARD, an individual

**(b) Attorneys** (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

KARIN G. PAGNANELLI (SBN 174763) kgp@msk.com  
 MARC E. MAYER (SBN 190969) mem@msk.com  
 ALEXA L. LEWIS (SBN 235867) all@msk.com  
 MITCHELL SILBERBERG & KNUPP LLP  
 11377 West Olympic Boulevard  
 Los Angeles, California 90064-1683

**Attorneys (If Known)**

Edward K. Welsh II  
 IP&L Solutions  
 4558 Ashton Court  
 Naples, FL 34112

**II. BASIS OF JURISDICTION** (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** - For Diversity Cases Only  
(Place an X in one box for plaintiff and one for defendant.)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. ORIGIN** (Place an X in one box only.)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify): ☐ 6 Multi-District Litigation ☐ 7 Appeal to District Judge from Magistrate Judge

**V. REQUESTED IN COMPLAINT: JURY DEMAND:** ☒ Yes ☐ No (Check 'Yes' only if demanded in complaint.)**CLASS ACTION** under F.R.C.P. 23: ☐ Yes ☒ No**MONEY DEMANDED IN COMPLAINT:** \$**VI. CAUSE OF ACTION** (Cite the U. S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Infringement [15 U.S.C. § 1114]; False Designation [15 U.S.C. § 1125(A)]; (3) Dilution [15 U.S.C. § 1125(C)]; Unfair Comp [Common Law & Cal. Bus. & Prof. Code § 17200]; Cancellation of TM Reg [15 U.S.C. §§ 1064 And 1119]; Dec Relief [28 U.S.C. § 2201]

**VII. NATURE OF SUIT** (Place an X in one box only.)

OTHER STATUTES	CONTRACT	TORTS PERSONAL INJURY	TORTS PERSONAL PROPERTY	PRISONER PETITIONS	LABOR
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 710 Fair Labor Standards Act
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 530 General	<input type="checkbox"/> 720 Labor/Mgmt. Relations
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act
<input type="checkbox"/> 450 Commerce/ICC Rates/etc.	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 740 Railway Labor Act
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<b>BANKRUPTCY</b>	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 790 Other Labor Litigation
<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 22 Appeal 28 USC 158	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<b>FORFEITURE / PENALTY</b>	<b>PROPERTY RIGHTS</b>
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<b>CIVIL RIGHTS</b>	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 810 Selective Service	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input checked="" type="checkbox"/> 840 Trademark
<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 630 Liquor Laws	<b>SOCIAL SECURITY</b>
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 61 HIA (1395ff)
<input type="checkbox"/> 891 Agricultural Act	<b>REAL PROPERTY</b>	<b>IMMIGRATION</b>	<input type="checkbox"/> 445 American with Disabilities - Employment	<input type="checkbox"/> 650 Airline Regs	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 892 Economic Stabilization Act	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 446 American with Disabilities - Other	<input type="checkbox"/> 660 Occupational Safety /Health	<input type="checkbox"/> 863 DIWC/DIWW 405(g)
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 463 Habeas Corpus-Alien Detainee	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 894 Energy Allocation Act	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 465 Other Immigration Actions			<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 240 Torts to Land				<b>FEDERAL TAX SUITS</b>
<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	<input type="checkbox"/> 245 Tort Product Liability				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 290 All Other Real Property				<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609

**FOR OFFICE USE ONLY:** Case Number: **CV12-8964**

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET

**VIII(a). IDENTICAL CASES:** Has this action been previously filed in this court and dismissed, remanded or closed? ☒ No ☐ Yes

If yes, list case number(s): \_\_\_\_\_

**VIII(b). RELATED CASES:** Have any cases been previously filed in this court that are related to the present case? ☒ No ☐ Yes

If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply) ☐ A. Arise from the same or closely related transactions, happenings, or events; or  
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.  
☐ Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.  
☐ Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
	Naples, Florida

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Los Angeles County	

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties  
**Note:** In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): \_\_\_\_\_ Date October 17, 2012

Marc E. Mayer

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))